



DOUGLAS A. DUCEY
GOVERNOR

STATE OF ARIZONA
OFFICE OF THE GOVERNOR

EXECUTIVE OFFICE

March 29, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on March 29, 2018:

HB 2035 deferred compensation plans; governing committee (Livingston)
HB 2156 legislative vacancy; appointment; time frame (Coleman)
HB 2196 certificates of necessity; hearings; duration (Carter)
HB 2242 fire districts; revisions; county islands (Farnsworth, E.)
HB 2258 diabetes; annual report (Carter)
HB 2412 leave of absence; day; definition (Shope)
HB 2477 high school mathematics; proficiency; notification (Udall)
HB 2505 converted entities; claims (Cobb)
HB 2513 hyperbaric oxygen therapy; veterans; fund (Finchem)
HB 2536 dual enrollment; homeschooled children (Bowers)
SB 1073 orthotics; prosthetic devices; valid prescription (Brophy McGee)
SB 1111 workers' compensation; opioids; dispensed medications (Fann)
SB 1204 trusts and estates (Worsley)
SB 1253 game and fish; licenses; fees (Griffin)
SB 1294 tax corrections act of 2018 (Farnsworth, D.)
SB 1401 ignition interlock device; installer; manufacturer (Worsley)
SB 1405 corporate income tax allocation; sales (Fann)
SB 1422 universities; tuition and fees (Griffin)

SB 1499 community facilities districts; directors (Smith)
SB 1502 ignition interlock device; incarceration credits (Smith)
SB 1518 department of child safety; reports (Brophy McGee)

Sincerely,

A handwritten signature in black ink, reading "Douglas A. Ducey". The signature is written in a cursive, flowing style with a large initial "D".

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

Senate Engrossed

FILED

MICHELE REAGAN

SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 106

SENATE BILL 1405

AN ACT

AMENDING SECTION 43-1147, ARIZONA REVISED STATUTES; RELATING TO THE
ALLOCATION OF BUSINESS INCOME FOR TAX PURPOSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 43-1147, Arizona Revised Statutes, is amended to read:

43-1147. Situs of sales of other than tangible personal property; definitions

A. Except as provided by subsection B of this section, sales, other than sales of tangible personal property, are in this state if either of the following applies:

1. The ~~income producing~~ INCOME-PRODUCING activity is performed in this state.

2. The ~~income producing~~ INCOME-PRODUCING activity is performed both in and outside this state and a greater proportion of the ~~income producing~~ INCOME-PRODUCING activity is performed in this state than in any other state, based on costs of performance.

B. For taxable years beginning from and after December 31, 2013, a multistate service provider may elect to treat sales from services as being in this state based on a combination of ~~income producing~~ INCOME-PRODUCING activity sales and market sales. If the election under this subsection is made pursuant to subsection C of this section, the sales of services that are in this state shall be determined for taxable years beginning from and after:

1. December 31, 2013 through December 31, 2014, by the sum of the following:

(a) Eighty-five ~~per cent~~ PERCENT of the market sales.

(b) Fifteen ~~per cent~~ PERCENT of the ~~income producing~~ INCOME-PRODUCING activity sales.

2. December 31, 2014 through December 31, 2015, by the sum of the following:

(a) Ninety ~~per cent~~ PERCENT of the market sales.

(b) Ten ~~per cent~~ PERCENT of the ~~income producing~~ INCOME-PRODUCING activity sales.

3. December 31, 2015 through December 31, 2016, by the sum of the following:

(a) Ninety-five ~~per cent~~ PERCENT of the market sales.

(b) Five ~~per cent~~ PERCENT of the ~~income producing~~ INCOME-PRODUCING activity sales.

4. December 31, 2016, by one hundred ~~per cent~~ PERCENT of the market sales.

C. A multistate service provider may elect to treat sales from services as being in this state under subsection B of this section as follows:

1. The election must be made on the taxpayer's timely filed original income tax return. The election is:

(a) Effective retroactively for the full taxable year of the income tax return on which the election is made.

1 (b) Binding on the taxpayer for at least five consecutive taxable
2 years, regardless of whether the taxpayer no longer meets the percentage
3 threshold of a multistate service provider during that time period, except
4 as provided by paragraph 2 of this subsection. To continue with the
5 election after the five consecutive taxable years, the taxpayer must meet
6 the qualifications to be considered a multistate service provider and
7 renew the election for another five consecutive taxable years.

8 2. During the election period, the election may be terminated as
9 follows:

10 (a) Without the permission of the department on the acquisition or
11 merger of the taxpayer.

12 (b) With the permission of the department before the expiration of
13 five consecutive taxable years.

14 D. For a multistate service provider under subsection E, paragraph
15 3, subdivision (b) of this section, an election under subsection B of this
16 section is limited to the treatment of sales for educational services.

17 E. For the purposes of this section:

18 1. ~~"Income-producing~~ INCOME-PRODUCING activity sales" means the
19 total sales from services that are sales in this state under subsection A
20 of this section.

21 2. "Market sales" means the total sales from services for which the
22 purchaser received the benefit of the service in this state.

23 3. "Multistate service provider" means either:

24 (a) A taxpayer that derives more than eighty-five ~~per cent~~ PERCENT
25 of its sales from services OR SALES FROM INTANGIBLES provided to
26 purchasers who receive the benefit of the service outside this state in
27 the taxable year of election, and includes all taxpayers required to file
28 a combined report pursuant to section 43-942 and all members of an
29 affiliated group included in a consolidated return pursuant to section
30 43-947. In calculating the eighty-five ~~per cent~~ PERCENT, sales to
31 students receiving educational services at campuses physically located in
32 this state shall be excluded from the calculation. FOR THE PURPOSES OF
33 THIS SUBDIVISION, "SALES FROM INTANGIBLES" MEANS SALES DERIVED FROM CREDIT
34 AND CHARGE CARD RECEIVABLES, INCLUDING FEES, MERCHANT DISCOUNTS,
35 INTERCHANGES, INTEREST AND RELATED REVENUE.

36 (b) A taxpayer that is a regionally accredited institution of
37 higher education with at least one university campus in this state that
38 has more than two thousand students residing on the campus, and includes
39 all taxpayers required to file a combined report pursuant to section
40 43-942 and all members of an affiliated group included in a consolidated
41 return pursuant to section 43-947.

42 4. "Received the benefit of the service in this state" means the
43 services are received by the purchaser in this state. If the state where
44 the services are received cannot be readily determined, the services are
45 considered to be received at the home of the customer or, in the case of a

1 business, the office of the customer from which the services were ordered
2 in the regular course of the customer's trade or business. If the
3 ordering location cannot be determined, the services are considered to be
4 received at the home or office of the customer to which the services were
5 billed.

6 5. "Sales for educational services" means tuition and fees required
7 for enrollment and fees required for courses of instruction, transcripts
8 and graduation.

9 Sec. 2. Effective date; applicability

10 This act is effective, and applies to taxable years beginning, from
11 and after December 31, 2019.

APPROVED BY THE GOVERNOR MARCH 29, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2018

Passed the House March 22, 2018,

Passed the Senate February 22, 2018,

by the following vote: 56 Ayes,

by the following vote: 30 Ayes,

3 Nays, 1 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

26th day of March, 2018

at 2:08 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 29th day of

March, 2018

at 12:04 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 29 day of March, 2018,

at 3:04 o'clock P. M.

[Signature]
Secretary of State

S.B. 1405